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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,664	12/28/2001	Paul S. Chambers	US 018213	1835

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

BOUTAH, ALINA A

ART UNIT	PAPER NUMBER
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2143

MAIL DATE	DELIVERY MODE
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05/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/034,664

Applicant(s)

CHAMBERS, PAUL S.

Examiner

Alina N Boutah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

This action is in response to Applicant's amendment filed February 26, 2007. Claims 1 and 3-8 are pending in the present application.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 26, 2007 has been entered.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5-7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. By definition, "software" is merely programs and applications that can be run on a computer system, therefore it is non-statutory. See M.P.E.P. 2601.1 Section I, which states, "Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and USPTO personnel

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should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material."

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collin et al. (USPN 6,330,597; hereinafter referred to as Collin) in view of Applicant's admitted prior art (AAPA).

(Amended) Regarding claim 1, Collin teaches a method for configuring a home network that has a data processing device and a network access device for access to an external network, comprising:

monitoring communication between the data processing device and the network access device (abstract; col. 2, lines 12-35);

extracting information from the monitored communication for configuring an interface between the data processing device the home network and the access device (col. 6, line 61 to col. 7, line 11; figures 2 and 3).

However, Collin does not explicitly teach intercepting the monitored communication in order to determine a protocol between the data processing device and the network access device.

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AAPA teaches a packet sniffer that eavesdrops on network traffic, and performing protocol analysis on the traffic (see specification, page 1, paragraph 005).

At the time the invention was made, one of ordinary skill in the art would have been motivated to intercept the monitored communication and use the intercepted communication to configure the network interface so that no new data configuration is necessary, thus making the connection more sufficient.

Regarding claim 3, Collin teaches the method of claim 1, further comprising guiding a user how to configure the interface based on the information extracted (col. 7, line 12-21).

Regarding claim 4, Collin teaches the method of claim 1, wherein the information extracted comprises an indication of one or more protocols below the transport level being used in the communication (col. 2, line 66 to col. 3, line 14).

(Amended) Regarding claim 5, Collin teaches a software for configuring a home network, wherein the home network has a data processing device and a network access device for access of an external network, the software comprising:

means for monitoring communication between the data processing device and the network access device (abstract; col. 2, lines 12-35); and

means for extracting information from the monitored communication for configuring an interface between the data processing device the home network and the access device (col. 6, line 61 to col. 7, line 11; figures 2 and 3).

However, Collin does not explicitly teach intercepting the monitored communication in order to determine a protocol between the data processing device and the network access device. AAPA teaches a packet sniffer that eavesdrops on network traffic, and performing protocol analysis on the traffic (see specification, page 1, paragraph 005).

At the time the invention was made, one of ordinary skill in the art would have been motivated to intercept the monitored communication and use the intercepted communication to configure the network interface so that no new data configuration is necessary, thus making the connection more sufficient.

(Amended) Regarding claim 6, Collin teaches the software of claim 5 wherein the interface is configured automatically (col. 2, line 66 to col. 3, line 14).

(Amended) Regarding claim 7, Collin teaches the software of claim 5, wherein a user is guided through configuring the interface based on the information extracted (col. 7, line 12-21).

(Amended) Regarding claim 8, Collin teaches an electronic apparatus for configuring a home network, having a data processing device and a network access device for access of an external network, comprising:

a monitor for monitoring communication between the data processing device and the network access device (abstract; col. 2, lines 12-35); and

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a configuration program for extracting information from the monitored communication for configuring an interface between the data processing device the home network and the access device (col. 6, line 61 to col. 7, line 11; figures 2 and 3).

However, Collin does not explicitly teach intercepting the monitored communication in order to determine a protocol between the data processing device and the network access device. AAPA teaches a packet sniffer that eavesdrops on network traffic, and performing protocol analysis on the traffic (see specification, page 1, paragraph 005).

At the time the invention was made, one of ordinary skill in the art would have been motivated to intercept the monitored communication and use the intercepted communication to configure the network interface so that no new data configuration is necessary, thus making the connection more sufficient.

Response to Arguments

Applicant's arguments with respect to independent claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N. Boutah whose telephone number is 571-272-3908. The examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2143